

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DANIEL W. McELROY and
AIMEE J. KING McELROY

CASE NO. 05-10019-RGS

**MOTION OF THE DEFENDANTS, DANIEL W. MCELROY AND
AIMEE J. MCELROY, FOR DISCLOSURE OF THE OFFICE OF THE UNITED
STATES TRUSTEE'S CRIMINAL REFERRAL TO THE UNITED STATES
ATTORNEY'S OFFICE CONCERNING XIEU VAN SON**

The Defendants, Daniel W. McElroy and Aimee J. McElroy, move that the Court order the government to provide them with a copy of the Criminal Referral from the United States Trustee concerning Xieu Van Son. The Defendants assert the following facts and argument in support of this Motion.

Xieu Van Son is a government witness in this case. He has pled guilty before this Court and is going to be sentenced after the Defendants' trial. Mr. Van Son during the time period alleged in the conspiracy committed bankruptcy fraud by not disclosing his income during his bankruptcy proceeding. The United States Trustee made a written referral to both the FBI and the United States Attorney's Office concerning Mr. Van Son's criminal conduct. The United States Attorney's Office despite this referral has not prosecuted Mr. Van Son.

The Defendants request for a copy of the referral has been denied by the government. The government has claimed that simply disclosing the above facts to the Defendants is sufficient.

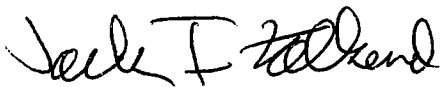
The Defendants contend that the referral itself is necessary to cross-examine Mr. Van Son about his deal with the government. This is the most basis type of exculpatory evidence that the government is legally obligated to disclose.

For the reasons set forth herein the Defendants request the Court grant this Motion.

Respectfully submitted:

AIMEE J. McELROY

By her attorney,



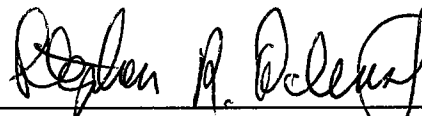
Jack I. Zalkind (BBO# 538840)
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DATED: January 9, 2008

Respectfully submitted

DANIEL McELROY,

By his attorney,



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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 1-11-08

By: 